

DANA A. DORAN, Executive Director  
Professional Logging Contractors of Maine

Before the Energy, Utilities and Technology Committee Regarding LD 1745 – An Act Regarding a Biomass-generated Energy Purchase and Sale Agreement and Payments to Contractors

Thursday, February 8, 2018  
1:00 P.M. – Cross Building – Room 211

Senator Woodsome, Representative Berry and members of the Committee on Energy, Utilities and Technology, my name is Dana Doran and I am the Executive Director of the Professional Logging Contractors of Maine. The Professional Logging Contractors of Maine (PLC) is a trade association that represents logging and trucking contractors throughout the state of Maine. The PLC was formed in 1995 to give independent contractors a voice in a rapidly changing forest industry.

As of 2014, logging and trucking contractors in Maine employed over 4,700 people directly and were indirectly responsible for the creation of an additional 3,000 jobs. This employment, and the associated investments that contractors made, contributed \$882 million into the state's economy. Our membership employs over half of the individuals who work in this industry and is also responsible for about 75% of Maine's annual timber harvest.

Thank you for providing me with the opportunity to testify on behalf of our membership in support of LD 1745, An Act Regarding a Biomass-generated Energy Purchase and Sale Agreement and Payments to Contractors. I would also like to thank Senator Jackson, Speaker Gideon, Senator Woodsome, Representative Berry and the other co-sponsors for their support of this important legislation.

I stand before you with reservation and disappointment. In the 127<sup>th</sup> Legislature, this Committee supported LD 1676, An Act to Establish a Process for the Procurement of Biomass. The Legislature believed that the funding provided by LD 1676 was a short-term bridge to help a struggling industry continue to provide significant economic impact to the state. The PLC was a major supporter of this legislation along with our industry partners such as landowners, sawmills, pulp and paper and the biomass electric industry. We feel strongly that this funding mechanism was needed then and is still needed today to keep our infrastructure working for a brighter future. That said, we are disappointed that we have to be here today to ensure the integrity of the legislation is upheld and will accomplish the goals that were intended.

When this legislation was passed, it was our understanding that its intent was to incentivize markets and ensure that the money would have an immediate impact over the course of no more than two years. It has been nearly two years since this legislation was passed and for the two companies that received the funding, one has met every expectation in the law and the other is the basis for why we are here today.

As you are all aware, the Act received bipartisan support from the legislature and the Governor, but only after significant debate, and with the inclusion of the protections and assurances that are included in the current Agreement between Stored Solar and Central Maine Power. It is the opinion of our organization that after one year, the protections and assurances both in the legislation and in the current agreement are not being honored and therefore the integrity of the legislation and the accountability of the Maine taxpayer must be protected.

As has been widely reported over the course of 2017, biomass suppliers have in good faith made deliveries of fuel to Stored Solar's two facilities in Jonesboro and West Enfield. However, after delivering fuel in the winter of 2017 and again in the summer of 2017, Stored Solar either chose not to pay according to the terms of its agreement with suppliers or attempted to renegotiate the price after the fact.

At various times throughout 2017, it has been brought to my attention that contractors have been owed between \$200,000 and \$1.5 million in payments that were more than 30 days old. Suppliers have had to resort to seeking relief from the courts or speaking publicly to emphasize how important these payments are to their livelihoods. Once these issues were aired publicly or legislation such as this was put forth, corrective action seems to have been taken to repay old debts. However, this type of behavior is not helpful to biomass suppliers and is certainly not what was expected by the Legislature.

On March 21, 2017, it was reported in the Bangor Daily News that suppliers were not being paid for fuel delivered in January and February. Without this public inquiry, it is unclear whether or when payments would have been made. In a letter to the Maine Public Utilities Commission dated March 27, Stored Solar acknowledged these issues by calling it an 'invoicing dispute' with some of its biomass suppliers regarding payments. In this same letter to the PUC, Stored Solar also requested that its agreement be altered with CMP so that it could keep its facilities running and pay its suppliers.

The PLC responded to this request to the PUC in a letter of its own and warned that if this contract agreement was allowed, and the issues of non-payment were not completely resolved before an amendment was made, or if a similar issue presented itself at some point during the term of a new agreement, there would be no opportunity for review/recourse until the end of a twelve-month term. The PUC chose to honor Stored Solar's request despite the warnings of the PLC. However, in looking back at the last eight months, it appears that our warnings were true.

The same pattern of behavior that occurred during the winter of 2017 returned shortly thereafter in April, May and June of 2017. Additional contractors took the risk of making deliveries to Stored Solar and again were left holding the bag. In September of 2017, there were close to ten contractors owed more than \$600,000 that was more than 60 days in arrears. At that point, Senator Jackson let Stored Solar know that legislation was imminent if contractors were not made whole. Surprisingly enough, Stored Solar began making payments to contractors in early November and at this point, their outstanding debt has been whittled to just over \$200,000 based upon reports from our membership.

The PLC remains committed to seeing the intent of the legislation surrounding the biomass contracts fulfilled to the benefit of Maine's forest economy and the state of Maine. According to the terms of its agreement with CMP, Stored Solar was supposed to purchase 500,000 tons of fuel in 2017 and it was also supposed to operate 50% of the time. Upon review of the latest actual operational data from the PUC, Stored Solar only operated 33% of the time and likely only consumed about 165,000 tons of fuel. From our perspective, it did not live up to the expectations of the legislation passed in 2016 and it certainly did not make a good faith effort to keep the value chain intact that was expected by the public trust.

With respect to the legislation before you today, if this Committee and the legislature feels that it is important to make contractors whole for fuel delivered and not paid for, then we are certainly in favor of Section 1, subsection 2. However, we are not here for a handout and it was never our expectation with LD 1676 that contractors would be the direct beneficiaries of state funding. We do not want to have all of our issues solved by the Legislature but in this case, it might be what is needed to make the best of a very difficult situation.

With respect to the balance of the legislation, we will let this committee and the Legislature decide if Stored Solar is capable of fulfilling its promises and inevitably should retain the balance of its subsidy. In the end, we want this industry to succeed and we still believe that the economic benefit of the biomass stabilization bill was and could be a very positive shot in the arm to our industry if the right companies are involved and the expectations and desires of the Legislature are fulfilled.

Thank you for the opportunity to provide the opinion of our membership before you today and I would be happy to answer any questions you may have.



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April 5, 2017

Mr. Harry A. Lanphear  
Administrative Director  
Maine Public Utilities Commission  
18 State House Station  
Augusta, ME 04333-0018

RE: Procurement of Biomass Resources, Docket No. 2016-00084, Opportunity for comment on petition to amend contract

Dear Mr. Lanphear

The Professional Logging Contractors of Maine (PLC) would like to take this opportunity to provide comments regarding a request filed by Stored Solar LLC on March 28, 2017, to amend a contract (the Agreement) approved Dec. 28, 2016 between Stored Solar and Central Maine Power Company (CMP) pursuant to an Act to Establish a Process for the Procurement of Biomass Resources.

As a collaborator in the creation of LD 1676, an Act to Establish a Process for the Procurement of Biomass Resources, the PLC and its membership devoted significant resources, time, and effort to its passage to stabilize the Maine biomass market, which is critical to the survival of the state's professional logging contractors, and therefore to Maine's entire forest products value chain.

As you are no doubt aware, the Act received bipartisan support from the legislature and the Governor, but only after significant debate, and with the inclusion of the protections and assurances that are included in the current Agreement.

It is the opinion of the PLC that any alteration of this Agreement, particularly given that the request to do so comes only three months after its terms began, would seriously undermine the intent and integrity of the process that produced it. It is critical that the terms agreed to by all parties involved in that process be upheld and not altered after the appropriate time for debate and deliberation has ended. To utilize an analogy, it's like changing the rules to a game after the game has already started.

The PLC regards the quarterly deposits and the review and reporting by the biomass purchaser required in the current Agreement as responsible safeguards to protect the investment of Maine taxpayers in this effort as well as all parties, including biomass suppliers, affected by the Agreement. Any changes would seriously erode these safeguards and also raise the possibility of biomass suppliers potentially being paid lower than market prices (thereby reducing their viability, which the legislation was designed to enhance) on a regular basis since payments would not be predicated upon any subsidy as that would not be reviewed until the end of the year.

Stored Solar, in a letter to the Maine Public Utilities Commission dated March 27, also recently acknowledged an invoicing dispute with some of its biomass suppliers regarding payments, and this dispute has drawn additional attention to the

Continued on page 2.

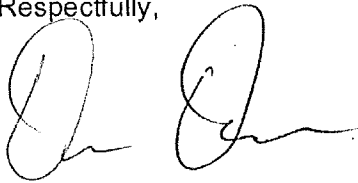
Agreement and the legislation behind it. If this issue is not completely resolved before an amendment was made, or if a similar issue presented itself at some point during the term of a new Agreement, there would be no opportunity for review/recourse until the end of a twelve-month term, which is not in keeping with the enabling legislation or in the best interest of the taxpayers and contributing suppliers. These verification measures were a major priority of the legislature, and the PUC, as the implementation authority, has a significant responsibility to ensure that these measures are verified on a consistent basis.

Additionally, regardless of who the beneficiary (generator) is, if an amendment like this were granted, we could envision other scenarios unfolding such as suppliers not being paid at the conclusion of the contract, the subsidy not being provided, and a term of one year transpiring where the benefits of the law were not utilized and the biomass economy suffering as a result.

The PLC remains committed to seeing the intent of the legislation surrounding the biomass contracts fulfilled to the benefit of Maine's forest economy and the state of Maine.

We urge you to carefully consider the full ramifications of any changes to the Agreement and to preserve it as written in the best interests of all that it benefits.

Respectfully,

A handwritten signature in black ink, appearing to be 'D. Doran', written in a cursive style.

Dana A. Doran  
Executive Director